

Message Text

PAGE 01 STATE 201519
ORIGIN DLOS-09

INFO OCT-01 ARA-10 IO-13 ISO-00 AGR-01 ACDA-12 AID-05
CEA-01 CEQ-01 CG-00 CIAE-00 COME-00 DODE-00
DOTE-00 EB-08 EPA-01 SOE-02 DOE-15 FMC-01 TRSE-00
H-01 INR-10 INT-05 JUSE-00 L-03 NSAE-00 NSC-05
NSF-01 OES-09 OMB-01 PA-01 PM-05 SP-02 SS-15
ICA-11 /149 R

DRAFTED BY S/AR:AGJAMES/MW

APPROVED BY S/AR:AGJAMES

-----018804 100050Z /73

R 092109Z AUG 78

FM SECSTATE WASHDC

TO AMEMBASSY QUITO

INFO USMISSION USUN NEW YORK

C O N F I D E N T I A L STATE 201519

FOR SUTTON FROM JAMES

E.O. 11652: GDS

TAGS: PLOS, EC

SUBJECT: LOS - AMBASSADOR RICHARDSON'S DISCUSSIONS WITH
ECUADOREAN LOS DELEGATION, AUGUST 3

REF: STATE 198834

1. AMBASSADOR RICHARDSON, ACCOMPANIED BY AMBASSADOR
GONZALEZ, DCM CORR, POL COUNSELOR SUTTON, NAVAL ATTACHE
SHANNON AND ALAN JAMES, HAD AN EXTENSIVE DISCUSSION OF LOS
ISSUES WITH THE VICE CHAIRMAN OF THE ECUADOR DELEGATION
AMBASSADOR LUIS PONCE AND HIS COLLEAGUES ON AUGUST 3.

2. THE AGENDA OF THE DISCUSSION INCLUDED FIVE NON-SEABEDS
CONFIDENTIAL

PAGE 02 STATE 201519

PROBLEMS BEING NEGOTIATED IN COMMITTEE II; MARINE SCIENTIFIC
RESEARCH; SEABEDS ISSUES, INCLUDING PROCEDURAL MATTERS; AND
THREE ISSUES OF PRIME IMPORTANCE TO ECUADOR, NAMELY, HIGHLY
MIGRATORY SPECIES, SAFEGUARD CLAUSE AND ARCHIPELAGOS WHICH
ARE NOT STATES.

3. A. COMMITTEE II

(A) LL/GDS ACCESS TO EEZ - RICHARDSON SAID THE US HOPED THE
NANDAN FORMULATIONS WOULD GAIN ACCEPTANCE. OUR ROLE WAS A
VERY LIMITED ONE; WE WOULD DO WHAT WE COULD TO FACILITATE

CONSENSUS BUT WE HAD LITTLE DIRECT STAKE IN THE ISSUE. THE ONLY QUESTION ABOUT WHETHER THE NANDAN FORMULATIONS WOULD GAIN ACCEPTANCE WAS RAISED BY ARIAS SCHREIBER'S OBJECTION TO THE REFERENCE TO THE "RIGHT" OF THE LL/GDS TO A PART OF THE SURPLUS OF FISH IN THE EEZ OF A COASTAL STATE. DID THE NANDAN TEXT CAUSE THE ECUADOR DIFFICULTY: PONCE SAID THE ISSUE OF THE "RIGHT" OF THE LL/GDS WAS THE KEY ISSUE. THE COASTAL STATES WOULD NOT RECOGNIZE THE "RIGHT" OF THE LL/GDS TO ACCESS. WHEN RICHARDSON OBSERVED THAT THE LANGUAGE REFERS ONLY TO THE RIGHT TO AN APPROPRIATE PART OF THE SURPLUS, PONCE SAID THAT REMAINS TO BE SEEN. THE LL/GDS IN HIS VIEW WANTED A RIGHT WITHOUT REGARD TO THE SURPLUS. THE WHOLE MATTER REQUIRED FURTHER DISCUSSION BEFORE IT COULD BE CONSIDERED SETTLED.

(B) DISPUTE SETTLEMENT IN THE EEZ - PONCE SAID THAT THERE HAD BEEN A HIGH DEGREE OF UNDERSTANDING AT GENEVA IN NEGOTIATING GROUP 5 ON DISPUTE SETTLEMENT IN THE EEZ. HE THOUGHT IT WOULD BE EASY TO ACHIEVE A CONSENSUS. RICHARDSON SAID THAT THAT WAS OUR IMPRESSION TOO.

(C) DEFINITION OF THE OUTER EDGE OF THE CONTINENTAL MARGIN - MENTIONING HIS CONVERSATION WITH AGUILAR IN CARACAS, CONFIDENTIAL

PAGE 03 STATE 201519

RICHARDSON SAID IT SHOULD BE EASY TO REACH AGREEMENT ON THE BASIS OF THE IRISH FORMULA PLUS AN ARRANGEMENT FOR REVENUE SHARING. THE ONLY OBSTACLE WAS THE SOVIET UNION. DID ECUADOR ACCEPT THE IRISH FORMULA? PONCE RESPONDED THAT ECUADOR SUPPORTS A BROAD SHELF AND REVENUE SHARING AND WILL COOPERATE TO REACH A FORMULA WHICH PRODUCES A JUST AGREEMENT. HE THOUGHT NG 6 SEEMED CLOSE TO CONSENSUS, BUT THE SOVIET PROPOSAL HAD SERIOUSLY INTERFERED WITH GETTING CONSENSUS. ECUADOR WOULD TRY TO COOPERATE TO FIND THE BEST SOLUTION ON TERMS SATISFACTORY TO THE BROAD MARGIN STATES. RICHARDSON DESCRIBED US EFFORTS TO INDUCE THE SOVIETS TO BE MORE FLEXIBLE. HE POINTED OUT THAT ON RESOLVING THE MARGIN ISSUE DEPENDED RESOLUTION OF THE LL/GDS AND DISPUTE SETTLEMENT IN THE EEZ. PONCE OBSERVED THAT IF THE SOVIET POSITION IS MAINTAINED WE CANNOT HOPE TO ADVANCE BECAUSE IT WILL TEND TO SET BLOC AGAINST BLOC. RICHARDSON AGREED.

(D) DELINEATION OF MARITIME BOUNDARIES - RICHARDSON SAID THAT WE THOUGHT DISPUTE SETTLEMENT SHOULD BE THE MAIN FOCUS OF NEGOTIATIONS ON THIS ISSUE; THE SMALL GROUP UNDER LOUIS SOHN SHOULD CONTINUE ITS WORK. WE WERE NOT OPTIMISTIC THAT MANNER COULD MOVE HIS GROUP CLOSER TO AGREEMENT ON THE SUBSTANTIVE ASPECTS. ON THIS POINT, PONCE SAID, ECUADOR THINKS MORE IN DEPTH NEGOTIATION IS NEEDED AMONG COUNTRIES WHICH ARE DIRECTLY INVOLVED. ECUADOR IS MORE A SPECTATOR THAN ACTOR IN THIS ISSUE. RICHARDSON SAID THAT THE US IS AS WELL, BUT WE TILT TOWARD EQUITABLE PRINCIPLES. ONLY A MEANINGLESS

ARTICLE SEEMED LIKELY TO GAIN AGREEMENT. UNLESS THE ARTICLE TO A VOTE.

-

(E) LEGAL STATUS OF THE EEZ - RICHARDSON PRESSED THE ECUADOREANS TO ACCEPT THE CURRENT TEXT ON THE LEGAL STATUS OF THE EEZ. HE NOTED THAT A LARGE PART OF THEIR 200-MILE TERRITORIAL SEA DOCTRINE HAD BEEN ACCEPTED BY THE CONFERENCE: COASTAL STATES WOULD GET SOVEREIGNTY OVER ECONOMIC RESOURCES; A CONSENT REGIME FOR MSR WAS GENERALLY ACCEPTED; CONFIDENTIAL

PAGE 04 STATE 201519

COASTAL STATES WOULD HAVE JURISDICTION TO PROTECT THE ENVIRONMENT AGAINST POLLUTION. THE BASIC PRINCIPLES OF COASTAL STATE SOVEREIGNTY HAD THEREFORE BEEN ESTABLISHED BY THE NEGOTIATIONS. IF ONE APPLIED A TECHNICAL INTERPRETATION TO THE TERRITORIAL SEA CONCEPT, THERE WOULD BE WITHIN THE 200-MILE ZONE ONLY THE RIGHT OF INNOCENT PASSAGE AND NO RIGHT OF OVERFLIGHT. ON THIS LATTER POINT THE ICNT DOES NOT ACCORD WITH THE TECHNICAL CONCEPT OF THE TERRITORIAL SEA. RATHER IT EMBODIES A QUALIFIED DEFINITION OF SOVEREIGNTY WHICH IT MAKES CONSISTENT WITH THE RIGHTS OF THIRD COUNTRIES TO EXERCISE FREEDOMS OF NAVIGATION AND OVERFLIGHT. THE COMPROMISE IN THE ICNT, RICHARDSON ADDED, IS BROADLY ACCEPTED BY THE GROUP OF COASTAL STATES, AMONG THEM MEXICO AND CHILE. HE WAS NOT SURE WHETHER BRAZIL ACCEPTED THE FORMULATION; PERHAPS THEY ARE HOLDING OUT IN ORDER TO BLUNT THE SOVIET PROPOSAL. PERU IS POSSIBLY INCLINED TO GO ALONG IF THE SOVIETS BACK DOWN. HE ASKED HOW ECUADOR STOOD ON THE MATTER. AMBASSADOR LUNA SPELLED OUT THE PHILOSOPHY OF THE 200-MILE TERRITORIAL SEA. IN ACCORDANCE WITH THE SANTIAGO DECLARATION ECUADOR HAS SINCE 1952 ADHERED TO THE CONCEPT OF BOTH SOVEREIGNTY AND JURISDICTION OVER A 200-MILE TERRITORIAL SEA. HE GRANTED THAT A TECHNICAL INTERPRETATION OF THE 200-MILE TERRITORIAL SEA DOCTRINE MEANT THAT ONLY INNOCENT PASSAGE WAS PERMITTED. AS A PRACTICAL MATTER, HOWEVER, ECUADOR'S LEGISLATION PROVIDED FOR THE EXERCISE OF HIGH SEAS FREEDOMS BY OTHER NATIONS. THIS, HE MADE CLEAR, WAS AN EXERCISE OF ECUADOR'S SOVEREIGNTY OVER THE TERRITORIAL SEA AND, BY IMPLICATION, A CONCESSION BY ECUADOR TO OTHER NATIONS. ECUADOR WOULD CONTINUE TO MAINTAIN THAT IT HAS COMPLETE SOVEREIGNTY OVER THE 200-MILE TERRITORIAL SEA INCLUDING THE ECONOMIC RESOURCES THEREOF, BUT THIS WOULD NOT AFFECT NAVIGATION OR OVERFLIGHT OF THE TERRITORIAL SEA BY OTHER NATIONS. RICHARDSON CONFIDENTIAL

PAGE 05 STATE 201519

SON POINTEDLY ASKED, "COULD YOU ACCEPT THE ICNT AS IT NOW STANDS?" LUNA SAID, "NO. WE WILL SEEK ANOTHER SOLUTION" (MEANING, PROBABLY, THAT ECUADOR WILL PRESS TO HAVE ITS PROPOSED SAFEGUARD CLAUSE INCORPORATED IN THE ICNT).

4. MARINE SCIENTIFIC RESEARCH

RICHARDSON HANDED PONCE A COPY OF THE SUGGESTED US AMENDMENTS TO THE TEXT ON MSR. PONCE SAID THEY WOULD STUDY THEM CAREFULLY AND WOULD HOPE TO TALK WITH RICHARDSON ABOUT THEM IN NEW YORK.

5. SEABEDS

RICHARDSON REVIEWED OUR PROBLEMS WITH THE ICNT AND THE NJENGA TEXTS. DISCUSSING TACTICS, RICHARDSON SAID WE SHOULD NOT GO BACK TO THE GENEVA TALKS AT THE NEXT SESSION. THIS HE THOUGHT COULD LEAD TO SERIOUS CONFRONTATION AND DESTROY THE IMPRESSION THAT THERE HAD BEEN FORWARD MOVEMENT AT GENEVA. NEGOTIATING GROUP 1 SHOULD MOVE ON TO ANNEX I. NEGOTIATING GROUP 2 SHOULD TRY TO FILL IN THE BLANKS ON AMOUNTS OF PAYMENTS TO BE MADE TO THE AUTHORITY BUT NEGOTIATING GROUP 3 ON THE COUNCIL RAISED TWO QUESTIONS: WHETHER DISCUSSIONS ON THE COUNCIL SHOULD BE CONTINUED, AND WHAT TO DO ABOUT ENGO. HE MENTIONED ZULETA'S IDEA OF ESTABLISHING A GROUP OF EXPERTS IN COMPARATIVE LAW TO STUDY JUDICIAL REVIEW OF ACCESS OF THE AUTHORITY, NOTING PERU'S VIEW THAT SUCH A BODY SHOULD BE DRAWN FROM DELEGATIONS RATHER THAN A MEMBERSHIP OF INDIVIDUALS IN THEIR OWN CAPACITY. RICHARDSON ADDED THAT WE SHOULD STOP WORK AT THE TIME ON THE COUNCIL. IF WE DID SO, THEN ENGO MIGHT SUPERVISE THE WORK OF NGS 1 AND 2, THE COMPARATIVE LAW EXPERTS GROUP AND SUCH ACTIVITY AS THE ARCHER GROUP MIGHT UNDERTAKE. CAPTAIN FLORES AGREED THAT WE SHOULD NOT GO BACK TO THE NJENGA TEXTS AT THIS TIME. HE TOUCHED ON BUT DID NOT SPELL OUT ECUADOR'S PROBLEMS WITH THE GENEVA TEXT AND DISCUSSIONS
CONFIDENTIAL

PAGE 06 STATE 201519

MENTIONING EXPLOITATION AND THE COUNCIL. FLORES DID NOT DIRECTLY ANSWER RICHARDSON WHETHER ECUADOR WOULD SUPPORT A FORMULA IN THE COUNCIL WHICH WOULD PERMIT THE US AND INDUSTRIALIZED COUNTRIES. HE MERELY SAID THAT IT WOULD BE DIFFICULT TO RECONCILE THE DIFFERING INTERESTS IN DEVELOPING A FORMULA FOR BLOCKING ACTION, BUT ACKNOWLEDGED THAT ECUADOR TOOK A MODERATE POSITION ON THIS MATTER. RICHARDSON SAID THAT ECUADOR'S GENERAL VIEWS ON THE COUNCIL WERE ENCOURAGING, AND THAT THE CONFERENCE SHOULD DEAL WITH THE COUNCIL LATER WHEN THE ELEMENTS OF EXPLOITATION HAVE FALLEN INTO PLACE IN A SEABEDS PACKAGE. PONCE RETURNED TO THE QUESTION OF THE COUNCIL WONDERING HOW WE COULD MAKE PROGRESS. HE OBSERVED THAT THE COMPOSITION OF THE COUNCIL AND VOTING WERE MATTERS OF SERIOUS CONCERN TO ECUADOR. RICHARDSON AGAIN URGED THAT DISCUSSION BE DEFERRED. HE POINTED OUT, HOWEVER, THAT WHATEVER THE CONFERENCE DID ON THE COUNCIL WOULD HAVE IMPORTANT PRECEDENTIAL SIGNIFICANCE.

6. B. PRODUCTION CONTROLS

RICHARDSON NOTED THAT ECUADOR IS NOT A MAJOR LANDBASED PRODUCER OF MINERALS FOUND ON THE SEABEDS, BUT HE ASSUMED THAT ECUADOR WAS SOLD WITH GROUP OF 77 ON THIS ISSUE. IN THIS CONNECTION HE EXPRESSED CONCERN ABOUT THE INTENTION OF THE EUROPEAN COMMUNITY COUNTRIES AND JAPAN TO DISCUSS THE US-CANADIAN COMPROMISE AT NEW YORK. RICHARDSON REVIEWED OUR INTEREST IN ACCESS TO THE SEABEDS, MAKING THE POINT THAT HE THOUGHT US INTERESTS WERE NOT INCONSISTENT WITH THOSE OF THE WORLD COMMUNITY. HE STRESSED THE NEED FOR SECURITY OF TENURE OF CONTRACTS AND PROTECTION OF SEABED MINING COMPANIES AGAINST THE ACTIONS OF COUNTRIES WHICH HAVE A BIAS AGAINST MULTINATIONAL CORPORATIONS. A STATE MONOPOLY IS NOT THE BEST VEHICLE FOR EXPLOITATION OF CONFIDENTIAL

PAGE 07 STATE 201519

SEABEDS; THERE SHOULD BE A MIXED SYSTEM TO CONDUCT THIS NEW AND RISKY UNDERTAKING. PONCE COMMENTED ON THE FOREGOING IN A VERY GENERAL WAY, SAYING MERELY THAT WE MUST NOT GET AWAY FROM THE CONCEPT OF THE COMMON HERITAGE OF MANKIND WHICH MUST BE SHARED BY ALL NATIONS.

7. THREE TOPICS OF SPECIAL INTEREST TO ECUADOR: PONCE SAID THAT MUCH OF THE NEGOTIATING TEXT HAS BEEN ACCEPTED BY A WIDE MAJORITY OF COUNTRIES, BUT ECUADOR SEES THE NEED FOR THE CONFERENCE TO OCCUPY ITSELF WITH SOME ASPECTS WHICH HAVE NOT YET RECEIVED DETAILED EXAMINATION. THESE HE SAID ARE: ARCHIPELAGOES WHICH ARE NOT STATES; A SAFEGUARD CLAUSE (ECUADOR'S PROPOSED ARTICLE 54 BIS WHICH WOULD PROVIDE FOR THE CONTINUING VALIDITY AFTER AN LOS TREATY HAS COME INTO FORCE OF ECUADOR'S 200-MILE TERRITORIAL SEA LEGISLATION); AND HIGHLY MIGRATORY SPECIES. (A) IN REGARD TO ARCHIPELAGOES, PONCE SAID ECUADOR WANTS THE CONFERENCE TO CONSIDER THIS ISSUE AND TO GIVE SUCH ISLANDS AS THE GALAPAGOS ARCHIPELAGOES STATUS. HE SAID IT IS IMPORTANT TO ECUADOR FOR THE PURPOSES OF PROTECTING THE MARINE ENVIRONMENT OF THE ISLANDS AND PROMOTING CONSERVATION. (B) AS TO HIGHLY MIGRATORY SPECIES, ECUADOR WOULD LIKE TO SEE INCORPORATED IN THE TEXT ITS AMENDMENTS WHICH HAD BEEN DISCUSSED WITH US REPRESENTATIVES AT THE GENEVA SESSION. (C) FINALLY, ON THE SAFEGUARD CLAUSE, PONCE SAID THAT THIS IS OF TRANSCENDENTAL IMPORTANCE TO ECUADOR AND OTHER COUNTRIES ASSOCIATED WITH ECUADOR IN PROMOTING A SAFEGUARD CLAUSE. HE HOPED ECUADOR COULD COUNT ON US SUPPORT TO ADVANCE ITS INTEREST IN THE FOREGOING THREE CATEGORIES.

RICHARDSON SAID WE CAN DISCUSS THESE MATTERS FURTHER IN NEW YORK. HE SIMPLY WANTED TO NOTE THAT AS AN ORIGINAL MATTER THE US WOULD HAVE BEEN HAPPY TO HAVE THE HAWAIIAN ISLANDS

ACCORDED ARCHIPELAGIC STATUS BUT THIS WOULD RAISE SERIOUS
CONFIDENTIAL

PAGE 08 STATE 201519

DIFFICULTY IN REGARD TO THE GREEK ISLANDS IN THE EASTERN
MEDITERRANEAN; NO ONE HAD A SOLUTION TO HANDLE THAT PROBLEM.
IF ECUADOR HAD DRAFTS WHICH THEY WOULD LIKE US TO CONSIDER
WE WOULD DO SO, BUT HE WONDERED HOW SIGNIFICANT IT
WOULD BE FOR ECUADOR TO DEFINE THE GALAPAGOS AS AN
ARCHIPELAGO. THE 200-MILE ECONOMIC ZONE WHICH THE GALA-
PAGOS WOULD HAVE UNDER THE ICNT SHOULD CERTAINLY BE AN
ADEQUATE BASIS FOR PROTECTING THE MARINE ENVIRONMENT AND
THE RESOURCES OF THOSE ISLANDS.

AS TO HIGHLY MIGRATORY SPECIES, CLINGAN HAD WORKED CLOSELY
WITH ECUADOR ON SUBSTANTIVE LANGUAGE ON ARTICLE 64. THE US
COULD ACCEPT THAT LANGUAGE BUT THE PROBLEM AS HE SAW IT
WAS FOR ECUADOR TO SELL IT TO OTHER CONCERNED COUNTRIES.
IF OTHERS DIRECTLY CONCERNED COULD ACCEPT ECUADOR'S FORMULA-
TIONS, THE CONFERENCE ITSELF WOULD PROBABLY DO SO.

FINALLY, AS TO A SAFEGUARD CLAUSE, RICHARDSON SAID HE HAD
REAL DIFFICULTY WITH THE IDEA THAT INTERNATIONAL LAW SHOULD
BE QUALIFIED BY NATIONAL LEGISLATION ENACTED PRIOR TO THE
COMING INTO FORCE OF THE LOS TREATY. HE THOUGHT THE CON-
FERENCE ITSELF SHOULD BE ABLE TO ACCOMMODATE THE REAL
INTERESTS OF STATES. THE US GOVERNMENT WOULD HAVE
GREAT DIFFICULTY IN ACCEPTING A RESERVATION SO FUNDAMENTAL
TO THE LEGAL STATUS OF THE ECONOMIC ZONE. OUR DEFENSE
DEPARTMENT WOULD BLOW THE IDEA OUT OF THE WATER. PONCE DID
NOT COMMENT ON RICHARDSON'S OBSERVATIONS ON THESE POINTS.

CHRISTOPHER

CONFIDENTIAL

<< END OF DOCUMENT >>

Message Attributes

Automatic Decaptioning: X
Capture Date: 26 sep 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AMBASSADORS
Control Number: n/a
Copy: SINGLE
Draft Date: 09 aug 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978STATE201519
Document Source: ADS
Document Unique ID: 00
Drafter: S/AR:AGJAMES/MW
Enclosure: n/a
Executive Order: 11652 GDS
Errors: n/a
Expiration:
Film Number: D780326-0982
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t197808122/baaaezml.tel
Line Count: 308
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Message ID: eed1f759-c288-dd11-92da-001cc4696bcc
Office: ORIGIN DLOS
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: STATE 198834
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 01 jul 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1588059
Secure: OPEN
Status: NATIVE
Subject: LOS - AMBASSADOR RICHARDSON'S DISCUSSIONS WITH ECUADOREAN LOS DELEGATION, AUGUST 3
TAGS: PLOS, EC
To: QUITO INFO USUN N Y
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/eed1f759-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014